



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

HOUSTON ORTHOPEDIC

Respondent Name

LIBERTY INSURANCE CORP

MFDR Tracking Number

M4-15-1278-01

Carrier's Austin Representative Box

Box Number 01

MFDR Date Received

December 29, 2014

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "We are submitting this Request for Reconsideration. Liberty Mutual's payment was only for \$16,760.13. We are seeking separate reimbursement on implants. That request was in box 80 located on the UB form. Accident Fund EOR states \$623.70 was paid on the implants. Per Medicare Fee schedule payment for DRG 460 should be \$24,063.30 @ 90% \$21,656.97. Implants \$23,742.17 with 10% markup \$2,000.00. Expected payment should have been \$47,399.14 - \$16,760.13 your payment = \$30,639.01 short paid from Liberty Mutual. Enclosed are the invoices for the implants. This was sent the first time. Payment is now due in full."

Amount in Dispute: \$30,639.01

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "We base our payments on the Texas Fee Guidelines and the Texas Department of Insurance/ Division of Workers' Compensation Commission's Acts and Rules.

We have received the medical dispute filed by Houston Orthopedic Hospital for services rendered to [injured employee] for the 04/17/2014-04/18/2014 date(s) of service. The bill and documentation attached to the medical dispute have re-reviewed and our position remains unchanged. Our rationale is as follows:

The provider was reimbursed at the applicable TWCC Rate for inpatient services at 108% of the IPPS rate for DRG 460 \$14,941.14 X 1.08= \$16,136.43.

Please note that when calculating the applicable DRG rate when a separate request for implants has been requested, that the charges must not be considered since this would result in an incorrect application of a DRG outlier resulting in overpayment. Considering implant charges and paying an outlier would only apply if the implants were being included in the DRG Reimbursement rate. The providers calculation of the applicable DRG rate is incorrect since it appears they are requesting both separate implant reimbursement and an applicable outlier reimbursement based on \$81,393.00 in billed implants."

Response Submitted by: Liberty Mutual Insurance

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
April 17, 2014	Inpatient Hospital Surgical Services	\$30,639.01	\$30,299.31

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 amended to be effective May 31, 2012, *37 Texas Register* 3833, applicable to medical fee dispute resolution requests filed on or after June 1, 2012, sets out the procedures for resolving a medical fee dispute.
2. 28 Texas Administrative Code §134.404 sets out the guidelines for reimbursement of hospital facility fees for inpatient services.
3. The services in dispute were reduced/denied by the respondent with the following reason codes:
 - Z710 – The charge for this procedure exceeds the fee schedule allowance
 - P300 – Charge exceeds fee schedule/maximum allowable or contracted/legislated fee arrangement
 - X074 – Intra-operative TIC Sheet listing all implants required to review this charge
 - X212 – This procedure is included in another procedure performed on this date
 - X023 – Payment for charge is not recommended without an invoice or documentation of cost. For reconsideration please submit appeal with EOP and documentation of cost
 - B13 – Previously paid. Payment for this claim/service may have been provided in a previous payment
 - Z695 – The charge for this hospitalization have been reduced based on the fee schedule allowance
 - 193 – Original payment decision is being maintained. Upon review, it was determined that his claim was processed properly
 - Z710 – The charge for this procedure exceeds the fee schedule allowance

Issues

1. Were the disputed services subject to a specific fee schedule set in a contract between the parties that complies with the requirements of Labor Code §413.011?
2. Which reimbursement calculation applies to the services in dispute?
3. What is the maximum allowable reimbursement for the services in dispute?
4. Is the requestor entitled to additional reimbursement for the disputed services?

Findings

1. 28 Texas Administrative Code §134.404(e) states that: "Except as provided in subsection (h) of this section, regardless of billed amount, reimbursement shall be:
 - (1) the amount for the service that is included in a specific fee schedule set in a contract that complies with the requirements of Labor Code §413.011; or
 - (2) if no contracted fee schedule exists that complies with Labor Code §413.011, the maximum allowable reimbursement (MAR) amount under subsection (f) of this section, including any applicable outlier payment amounts and reimbursement for implantables."

No documentation was found to support the existence of a contractual agreement between the parties to this dispute; therefore the MAR can be established under §134.404(f).

2. §134.404(f) states that "The reimbursement calculation used for establishing the MAR shall be the Medicare facility specific amount, including outlier payment amounts, determined by applying the most recently adopted and effective Medicare Inpatient Prospective Payment System (IPPS) reimbursement formula and factors as published annually in the Federal Register. The following minimal modifications shall be applied.
 - (1) The sum of the Medicare facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by:
 - (A) 143 percent; unless
 - (B) a facility or surgical implant provider requests separate reimbursement in accordance with subsection (g) of this section, in which case the facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by 108 percent."

Review of the documentation finds that that the facility requested separate reimbursement for implantables; for that reason, the requirements of subsection (g) apply.

3. §134.404(g) states, in pertinent part, that "(g) Implantables, when billed separately by the facility or a surgical implant provider in accordance with subsection (f)(1)(B) of this section, shall be reimbursed at the lesser of the

manufacturer's invoice amount or the net amount (exclusive of rebates and discounts) plus 10 percent or \$1,000 per billed item add-on, whichever is less, but not to exceed \$2,000 in add-on's per admission.

- (1) A facility or surgical implant provider billing separately for an implantable shall include with the billing a certification that the amount billed represents the actual costs (net amount, exclusive of rebates and discounts) for the implantable. The certification shall include the following sentence: "I hereby certify under penalty of law that the following is the true and correct actual cost to the best of my knowledge."

Review of the documentation found supports that the following items were certified as required by (g):

Itemized Statement Rev Code or Charge Code	Itemized Statement Description	Cost Invoice Description	# Units & Cost Per Unit	Cost Invoice Amount	Per item Add-on (cost +10% or \$1,000 whichever is less).
278	Tisseel 10ML fibrin	Tisseel Kit 10 ML	2 at \$559.14 ea	\$1,118.28	\$111.83
278	Surgiflo Matrix	Surgiflo/Lyo Thrombin	4 units billed, invoice supports 3 units at \$1,117.21 ea	\$3,351.63	\$335.16
278	MTF Canc Chip 30 CC	Cancellous Chip 30 CC	4 at \$431.20 ea	\$1,724.80	\$172.48
278	Int Duragen MTX 2x2	DuraGen Plus Dural Regeneration Matrix	1 at \$567.00 ea	\$567.00	\$56.70
278	Nexgen Biologic Strip	Nexgen 50X10XMM Biolog Strip	10 at \$1,200.00 ea	\$12,000.00	\$1,200.00
278	DBX Putty 10 CC	DBX Putty 10cc	3 units billed, invoice supports 1 unit at \$1,287.75 ea	\$1,287.75	\$128.78
				\$20,049.46	\$2,000.00
				Total Supported Cost	Sum of Per-Item Add-on

The division finds that the facility supported separate reimbursement for these implantables, and that the cost invoices were certified as required. Therefore, the MAR is calculated according to §134.404(f)(1)(B).

4. §134.404(f)(1)(B) establishes MAR by multiplying the most recently adopted and effective Medicare Inpatient Prospective Payment System (IPPS) reimbursement formula and factors (including outliers) by 108%, **plus** reimbursement for items appropriately certified under §134.404(g). The Medicare IPPS payment rates are found at <http://www.cms.gov>, and the sum of the per-item add-on for which separate reimbursement was requested are taken from the table above.
- Documentation found supports that the DRG assigned to the services in dispute is 460, and that the services were provided at Houston Orththopedic. Consideration of the DRG, location of the services, and bill-specific information results in a total Medicare facility specific allowable amount of \$23,157.39. This amount multiplied by 108% results in an allowable of \$25,009.98.
 - The total cost for implantables is \$20,049.46. The sum of the per-billed-item add-ons exceeds the \$2000 allowed by rule; for that reason, the total allowable amount for implantables is \$20,049.46 plus \$2,000, which equals \$22,049.46.

Therefore, the total allowable reimbursement for the services in dispute is \$25,009.98 plus \$22,049.46, which

equals \$47,059.44. The respondent issued payment in the amount of \$16,760.13. Based upon the documentation submitted, additional reimbursement in the amount of \$30,299.31 is recommended.

Conclusion

For the reasons stated above, the division finds that the requestor has established that additional reimbursement is due.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby **ORDERS** the respondent to remit to the requestor the amount of \$30,299.31 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

_____	_____	4/24/15
Signature	Medical Fee Dispute Resolution Officer	Date

_____	_____	4/24/15
Signature	Medical Fee Dispute Resolution Manager	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, *37 Texas Register 3833*, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.